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IN THE UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF OREGON  
 PORTLAND DIVISION

RODERICH BOTT

Plaintiff,

vs.

JEFFREY M. EDELSON, an individual;  
 MARKOWITZ, HERBOLD, GLADE &  
 MEHLHAF, PC, an Oregon professional  
 corporation; and ROBERT J. MCGAUGHEY,  
 an individual.

Defendants.

Case No.:

**COMPLAINT FOR DAMAGES**

**JURY TRIAL DEMANDED**

Plaintiff, Roderich Bott, by and through his attorneys of record, demand a jury trial, and  
 allege as follows:

**I. PRELIMINARY STATEMENT**

1. This is an action for damages relating to claims for professional malpractice,  
 breach of fiduciary duty, breach of written contract and breach of oral contract.

///

1 **III. JURISDICTION**

2 2. Plaintiff brings his complaint under federal diversity jurisdiction, 28 U.S.C.  
3 Section 1332, as the parties are completely diverse in citizenship and the amount of controversy  
4 exceeds \$75,000.

5 3. Venue is in the District of Oregon pursuant to 28 U.S.C. Section 1391(b) because  
6 a substantial part of the events and omissions giving rise to the claims occurred in this district.  
7

8 **III. PARTIES**

9 4. Plaintiff RODERICH BOTT (“Bott”) is an individual, and a citizen of the Federal  
10 Republic of Germany.

11 5. Defendant JEFFREY EDELSON (“Edelson”) is an individual. Said defendant is  
12 an Oregon licensed attorney, and is an owner and agent of the law firm of MARKOWITZ,  
13 HERBOLD, GLADE & MEHLHAF, PC (the “Markowitz Law Firm”). Plaintiff is informed and  
14 believes, and based thereon alleges, that at all relevant times herein, said defendant was also an  
15 employee of the Markowitz Law Firm. Plaintiff is informed and believes, and based thereon  
16 alleges, that said defendant is a citizen of Oregon and a resident of Oregon.

17 6. Defendant Markowitz Law Firm is an Oregon professional corporation,  
18 conducting business in the state of Oregon, and a citizen of Oregon. Said defendant is directly  
19 liable for the claims asserted herein, and also liable for defendant Edelson’s wrongful conduct  
20 under the doctrine of *respondeat superior*.

21 7. Defendant ROBERT J. MCGAUGHEY (“McGaughey”) is an individual. Said  
22 defendant is an Oregon licensed attorney. Plaintiff is informed and believes, and based thereon  
23 alleges, that he is a citizen of Oregon and a resident of Oregon.

24 ///

25 ///

### III. FACTS COMMON TO ALL CLAIMS

8. Bott is one of two owners and members of Dr. Bott LLC, an Oregon limited liability company (the “LLC”).

9. Eric W. Prentice (hereafter referred to as “Prentice”) is one of two owners and members of the LLC. Pursuant to the LLC’s Operating Agreement, Prentice holds the title of “Operating Manager.” Pursuant to that Operating Agreement, Prentice is given exclusive and broad management and decision-making authority to make decisions regarding matters relating to litigation, to retain attorneys for the LLC, and to instruct LLC attorneys on courses of action. Such management and decision-making authority is subject to fiduciary duties that Prentice owes to the LLC.

10. On or about November 2011, Prentice retained on behalf of the LLC defendant McGaughey for legal services in connection with *Dr. Bott, LLC and Eric W. Prentice vs. Dr. Roderich Bott*, Circuit Court of the State of Oregon, Multnomah County, Case No. 1112-15996 (and related counterclaims) (the “Underlying Action”)

11. On or about April 2012, Prentice also retained on behalf of the LLC defendants Edelson and the Markowitz Law Firm for legal services in connection with the Underlying Action.

12. Plaintiff is informed and believes, and based thereon alleges, that there exists one or more attorney-client legal services agreements (individually and collectively “Legal Services Agreements”), each of which were entered into on or about the time that each of the defendant attorneys and/or defendant law firms were retained. Such Legal Services Agreements consisted of, among other things, the defendants’ agreement to provide legal representation of the LLC in the Underlying Action in exchange for the LLC’s agreement to pay for services rendered and costs advanced.

1           13.     As an alternative to the allegations set forth in paragraph 12, plaintiff is informed  
2 and believes, and based thereon alleges, that one or more oral agreements existed between  
3 plaintiff and each of the defendant attorneys and/or defendant law firms. Plaintiff is informed  
4 and believes, and based thereon alleges that the oral agreements were entered into by the LLC  
5 and the respective defendant attorneys and/or law firms on or about the same date that each of  
6 the defendant attorneys and/or law firms were retained by the LLC. Pursuant to each oral  
7 agreement, the LLC agreed to pay for services rendered and costs advanced, in exchange for  
8 defendants' legal representation of the LLC in the Underlying Action.

9           14.     All written and oral agreements alleged herein, relating to legal services, were to  
10 be performed in the County of Multnomah, State of Oregon.

11           15.     Pursuant to either the Legal Services Agreements, or (if no such written  
12 agreement(s) existed) pursuant to oral agreements to perform legal services between the  
13 defendants and the LLC, the defendants prosecuted on behalf of LLC a buy-out Complaint  
14 against Bott. This buy-out Complaint was part of the Underlying Action.

15           16.     Pursuant to either the Legal Services Agreements, or (if no such written  
16 agreement existed) pursuant to oral agreements to perform legal services between the defendants  
17 and the LLC, the defendants represented the LLC during the course of a derivative lawsuit filed  
18 as counterclaims in the Underlying Action by Bott on behalf of the LLC, against Prentice. The  
19 derivative claims were non-frivolous claims against Prentice for breach of fiduciary duty, fraud,  
20 conversion and breach of contract.

21           17.     On May 1, 2014, certain creditors of the LLC filed an involuntary bankruptcy  
22 petition in U.S. Bankruptcy Court for the District of Oregon. On or before approximately June  
23 18, 2014, the bankruptcy estate, through its trustee ("Trustee"), became the holder and owner of  
24 claims against third parties, including all claims and rights to recover against the defendants  
25 included in and/or related to this lawsuit.

19. The tolling of all statute of limitations for all claims asserted herein have been stayed and/or tolled up to October 4, 2013, by the defendants' failure to disclose to the LLC that facts exist that constituted the defendants' breach of their duty of loyalty to the LLC, despite the defendants' legal duty to make such a disclosure earlier.

7           20.     The tolling of all statute of limitations for all claims asserted herein have been  
8 further stayed and/or tolled up to January 15, 2013, by the defendants' active concealment from  
9 plaintiff of the contents of a certain Joint Interest Agreement and written guarantee as described  
10 more fully herein.

21. The tolling of all statute of limitations for all claims asserted herein have been further stayed and/or tolled by operation of federal bankruptcy law, commencing from the time of the filing of the bankruptcy petition until the time that the claims asserted herein have been assigned by the Trustee to plaintiff.

### III. CLAIMS

## FIRST CLAIM FOR RELIEF

(Legal Malpractice Against all Defendants)

19           22.     Plaintiff re-alleges and incorporates by reference the allegations set forth in  
20 paragraphs 1 through 21, inclusive.

21           23.       The defendants and each of them owed a duty to the LLC to do the following: (a)  
22    use such skill, prudence, and diligence a member of the legal profession commonly possess and  
23    exercise, in providing legal services to the LLC; (b) perform all legal services with due care and  
24    diligence; (c) take all reasonable and necessary actions to fulfill their duties of loyalty to the LLC  
25    in providing legal services; and (d) act in the LLC's best interests.

1           24.     Upon the commencement of each of the defendant's legal representation, or  
2     shortly thereafter, each of them entered into on behalf of the LLC, and/or ratified and accepted  
3     on behalf of the LLC, a Joint Interest Agreement between the LLC and Prentice.

4           25.     Plaintiff, in his capacity as co-owner of the LLC, did not consent to the Joint  
5     Interest Agreement, and in fact, did not know of its existence or contents of the Joint Interest  
6     Agreement until approximately one year after the commencement of the Underlying Action.

7           26.     During the course of the Underlying Action, defendants permitted the LLC to  
8     conduct the litigation of the Underlying Action pursuant to the Joint Interest Agreement, and the  
9     defendants took it upon themselves to conduct the litigation of the Underlying Action pursuant to  
10    the Joint Interest Agreement in their capacities as attorneys and agents of the LLC. Additionally,  
11    plaintiff is informed and believes, and based thereon alleges, that defendants advised the LLC  
12    that they (the defendants) should conduct the litigation of the Underlying Action pursuant to the  
13    Joint Interest Agreement on behalf of the LLC.

14          27.     By entering into the Joint Interest Agreement on behalf of the LLC during the  
15    course of a derivative lawsuit, the defendants caused and permitted the LLC and Prentice to  
16    jointly align their respective interest with each other.

17          28.     By entering into the Joint Interest Agreement on behalf of the LLC during the  
18    course of a derivative lawsuit, the defendants placed themselves in a position of representing  
19    Prentice's interest, and in a position of representing interests adverse to the LLC.

20          29.     The Joint Interest Agreement gave the defendants the ability to share with  
21    Prentice and his attorney the LLC's work product, strategy, evidence, factual and legal analysis,  
22    use of experts, information and reports from experts, trial preparation material and analysis, and  
23    the LLC's own attorney-client privileged and confidential communications during the course of  
24    the Underlying Action. The defendants did, in fact, do those things. Such acts constituted a  
25    conflict of interest, and a breach of the defendants' duty to the LLC.

1           30.     The Joint Interest Agreement gave Prentice the ability to share with the LLC's his  
2     (Prentice's) own work product, strategy, evidence, factual and legal analysis, use of experts,  
3     information and reports from experts, trial preparation material and analysis, and his (Prentice's)  
4     own attorney-client privileged and confidential communications during the course of the  
5     Underlying Action. Prentice, though his attorney, did, in fact, do those things. Once Prentice  
6     shared this information and evidence with the defendants, the defendants were contractually  
7     bound under the Joint Interest Agreement to maintain its confidentiality. By maintaining  
8     confidentiality, the defendants were affirmatively acting adverse to plaintiff's interest and were  
9     no longer placing the LLC in a neutral position as passive litigants during a derivative action.  
10    Such acts constituted a conflict of interest, and a breach of the defendants' duty to the LLC.

11           31.     Furthermore, during the course of legal representation, the defendants accepted  
12    and/or ratified, and advised the LLC to accept and continue to perform, pursuant to a written  
13    guarantee that purported to give the LLC unlimited and unconditional liability for Prentice's  
14    individual attorney fees, regardless of the nature or proof of allegations against him. Such acts  
15    constituted a breach of the defendants' duty to the LLC.

16           32.     Because the defendants acted, advised and successfully encouraged the LLC to  
17    align the LLC's interest against plaintiff, the defendants prolonged the Underlying Action and  
18    continued to bill the LLC for attorney fees. Such acts constituted a breach of the defendants'  
19    fiduciary duty to the LLC. This, in turn, caused the LLC to incur continuing legal fees, costs of  
20    litigation, costs of labor and use of management resources towards the litigation, loss of equity  
21    and loss of market value.

22           33.     Because the defendants acted, advised and successfully encouraged the LLC to  
23    align the LLC's interest against plaintiff, the defendants enabled the LLC to take actions against  
24    the LLC's own interest. Such actions included, but were not limited to the severing an important  
25    business relationship between the LLC and Dr. Bott KG during the course of the Underlying

1 Action. Such acts constituted a breach of the defendants' duty to the LLC. This, in turn, caused  
2 the LLC to lose revenue.

3 34. Because the defendants acted, advised and successfully encouraged the LLC to  
4 align the LLC's interest against plaintiff, the defendants enabled the LLC to take actions against  
5 the LLC's own interest. Such actions included, but were not limited to, permitting Prentice and  
6 LLC management to continue to receive salary and benefits from the LLC, and use of LLC's  
7 funds for Prentice's own legal fees, causing financial damage to the LLC.

8 35. Because the defendants acted, advised and successfully encouraged the LLC to  
9 align the LLC's interest against plaintiff, the defendants enabled the LLC to take actions against  
10 the LLC's own interest. Such actions included, but were not limited to, failing to investigate and  
11 correct the LLC's tax reporting consistent with GAAP rules and regulations. As a result of this,  
12 plaintiff in his capacity as LLC member was unable to sign the LLC's 8804-C form designed to  
13 waive Withholding Tax. This, in turn, made it impossible for the LLC to obtain debt relief during  
14 the course of its bankruptcy proceedings, causing financial damage to the LLC by making the  
15 LLC liable for the Withholding Tax.

16 36. As a result of the actions alleged herein, on October 4, 2013, the court in the  
17 Underlying Action made a finding of fact that the defendants, and each of them, breached their  
18 duty of loyalty to the LLC, and ordered that they be disqualified as the LLC's attorney. Attached  
19 as Exhibit "A" is a true and correct copy of the court's Order on Motion to Disqualify.

20 37. Despite the fact that they were disqualified as the LLC's attorneys, the defendants  
21 improperly held themselves out as the LLC's attorneys by subsequently filing and pursuing an  
22 appeal purportedly on behalf of the LLC in the proceeding entitled *Dr. Bott, LLC and Eric W.*  
23 *Prentice vs. Dr. Roderich Bott*, Court of Appeals, State of Oregon, Court of Appeals No.  
24 A155605. The appeal was filed on or about November 20, 2013, even though there was no final  
25 judgment to the Underlying Action. The appeal was summarily dismissed by the appellate court



on or about November 25, 2013. The act of pursuing an appeal, and billing and receiving from the LLC money for legal services in connection therewith, constituted a breach of the defendants' duty to the LLC.

38. Despite the fact that they were disqualified as the LLC's attorneys, the defendants continued to improperly hold themselves out as the LLC's attorneys by subsequently filing and pursuing a petition for writ of mandamus purportedly on behalf of the LLC in the proceeding entitled *Dr. Bott, LLC and Eric W. Prentice vs. Dr. Roderich Bott*, Supreme Court, State of Oregon, No. S061779. The petition for a writ was filed on or about November 1, 2013, and it was denied on or about March 14, 2014. The act of pursuing a writ of mandamus, and billing and receiving from the LLC money for legal services in connection therewith, constituted a breach of the defendants' duty to the LLC.

39. As a direct result and proximate result of defendants' breach of duties alleged herein, the LLC has incurred damages in the form of legal fees, legal costs, costs for labor and management, loss of equity value of the LLC, loss of sales, loss of brand value and good will, and other financial damages, all in an amount to be proven at trial, and in excess of \$75,000.

40. Through the assignment of claims alleged previously, plaintiff is entitled to recover for damages (including court costs of litigation) alleged herein.

## SECOND CLAIM FOR RELIEF

### (Breach of Fiduciary Duty Against all Defendants)

41. Plaintiff re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 21, paragraphs 24-38 and paragraph 40, inclusive.

42. As a result of the attorney-client relationship, the defendants and each of them owed a fiduciary duty to the LLC to do the following: (a) use such skill, prudence, and diligence a member of the legal profession commonly possess and exercise, in providing legal services to

1 the LLC; (b) perform all legal services with due care and diligence; (c) take all reasonable and  
 2 necessary actions to fulfill their duties of loyalty to the LLC in providing legal services; and (d)  
 3 act in the LLC's best interests.

4 43. By doing the acts alleged herein, the defendants breached their fiduciary duties to  
 5 the LLC.

6 44. As a direct result and proximate result of defendants' breach of fiduciary duties  
 7 alleged herein, the LLC has incurred damages in the form of legal fees, legal costs, costs for  
 8 labor and management, loss of equity value of the LLC, loss of sales, loss of brand value and  
 9 good will and other financial damages, all in an amount to be proven at trial, and in excess of  
 10 \$75,000.

11 45. Plaintiff is informed and believes, and based thereon alleges, that one or all of the  
 12 Legal Services Agreements contained a provision stating that, in the event that litigation is filed  
 13 by one of the parties to the Legal Services Agreement in connection with the subject matter of  
 14 the Legal Services Agreement, the prevailing party shall be entitled to recovery of his or its  
 15 reasonable attorneys' fees and costs.

16 46. Through the assignment of claims alleged previously, plaintiff is entitled to  
 17 recover for the damages, including attorney fees and court costs of litigation, alleged herein.

### 18 19 THIRD CLAIM FOR RELIEF

#### 20 (Breach of Written Contract Against all Defendants)

21 47. Plaintiff re-alleges and incorporates by reference the allegations set forth in  
 22 paragraphs 1 through 21, paragraphs 24-38 and paragraph 40, inclusive.

23 48. The Legal Services Agreements included an implied provision that the defendants  
 24 would: (a) use such skill, prudence, and diligence a member of the legal profession commonly  
 25 possess and exercise, in providing legal services to the LLC; (b) perform all legal services with

1 due care and diligence; (c) take all reasonable and necessary actions to fulfill their duties of  
 2 loyalty to the LLC in providing legal services; and (d) act in the LLC's best interests.

3 49. By doing the acts alleged herein, the defendants breached those implied  
 4 provisions in the Legal Services Agreements.

5 50. As a direct result and proximate result of defendants' breach of contract alleged  
 6 herein, the LLC has incurred damages in the form of legal fees, legal costs, costs for labor and  
 7 management, loss of equity value of the LLC, loss of sales, loss of brand value and good will,  
 8 and other financial damages, all in an amount to be proven at trial, and in excess of \$75,000.

9 51. Plaintiff is informed and believes, and based thereon alleges, that one or all of the  
 10 Legal Services Agreements contained a provision stating that, in the event that litigation is filed  
 11 by one of the parties to the Legal Services Agreement in connection with the subject matter of  
 12 the Legal Services Agreement, the prevailing party shall be entitled to recovery of his or its  
 13 reasonable attorneys' fees and costs.

14 52. Through the assignment of claims alleged previously, plaintiff is entitled to  
 15 recover for the damages, including attorney fees and court costs of litigation, alleged herein.

#### 16 FOURTH CLAIM FOR RELIEF

17 (Breach of Oral Contract Against all Defendants)

18 (as an alternative to the Third Claim for Relief)

19 53. Plaintiff re-alleges and incorporates by reference the allegations set forth in  
 20 paragraphs 1 through 21, paragraphs 24-38 and paragraph 40, inclusive.

21 54. As an alternative to the Third Claim for Relief, plaintiff alleges that the oral  
 22 agreement to provide legal services, as alleged herein, included an implied provision that the  
 23 defendants would: (a) use such skill, prudence, and diligence a member of the legal profession  
 24 commonly possess and exercise, in providing legal services to the LLC; (b) perform all legal  
 25

1 services with due care and diligence; (c) take all reasonable and necessary actions to fulfill their  
2 duties of loyalty to the LLC in providing legal services; and (d) act in the LLC's best interests.

3 55. By doing the acts alleged herein, the defendants breached those implied  
4 provisions of the agreements.

5 56. As a direct result and proximate result of defendants' breach of contract alleged  
6 herein, the LLC has incurred damages in the form of legal fees, legal costs, costs for labor and  
7 management, loss of equity value of the LLC, loss of sales, loss of brand value and good will,  
8 and other financial damages, all in an amount to be proven at trial, and in excess of \$75,000.

9 57. Through the assignment of claims alleged previously, plaintiff is entitled to  
10 recover for damages (including court costs of litigation) alleged herein.

11 WHEREFORE, plaintiff prays for judgment against defendants individually, jointly and  
12 severally as follows:

13 1. For damages in an amount to be proven at trial, such damages in excess of  
14 \$75,000;

15 2. For recovery of attorney fees and costs;

16 3. For prejudgment interest at the legal rate;

17 4. For post judgment interest at the legal rate;

18 5. For costs of suit; and

19 6. For such further relief as this court deems proper.

20 Plaintiff demands a trial by Jury

21  
22 Dated: April 14, 2016

23  
24 /s Bryan P. Murphy

25 Bryan P. Murphy, OSB # 893178  
Bryan P. Murphy P.C.

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Signed  
10/4/13

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR MULTNOMAH COUNTY

DR. BOTT LLC, an Oregon limited liability  
company,

Plaintiff,

ERIC W. PRENTICE,

Nominal Plaintiff,

v.

DR. RODERICH BOTT,

Defendant.

DR. RODERICH BOTT,

Defendant,

v.

ERIC W. PRENTICE and DR. BOTT LLC, an  
Oregon limited liability company,

Plaintiff,

Case No. 1112-15996

**ORDER ON MOTION TO  
DISQUALIFY**

1 THIS MATTER came before the Court on defendant Dr. Roderich Bott's Motion to  
 2 Disqualify the Law Office of Robert McGaughey and Markowitz, Herbold, Glade & Mehlhaf,  
 3 P.C. from representing plaintiff Dr. Bott, LLC.

4 The Court considered the following:

- 5 (1) Defendant's Motion to Disqualify;
- 6 (2) Declaration of Katherine R. Heekin in Support of Defendant Dr. Roderich Bott's  
 7 Motion to Disqualify;
- 8 (3) Declaration of Dr. Roderich Bott in Support of Defendant Dr. Roderich Bott's  
 9 Motion to Disqualify;
- 10 (4) Declaration of Larry Vergun in Support of Defendant Dr. Roderich Bott's Motion  
 11 to Disqualify;
- 12 (5) Declaration of Bill Douglas;
- 13 (6) Plaintiff Dr. Bott LLC's Response to Defendant Bott's Motion to Disqualify;
- 14 (7) Declaration of C. Jeffrey Abbot in Support of Plaintiff Dr. Bott LLC's Response  
 15 to Defendant Bott's Motion to Disqualify;
- 16 (8) Declaration of Mark Balsiger in Support of Plaintiff Dr. Bott LLC's Response to  
 17 Defendant Bott's Motion to Disqualify;
- 18 (9) Declaration of Tiffany R. Couch in Support of Plaintiff Dr. Bott LLC's Response  
 19 to Defendant Bott's Motion to Disqualify;
- 20 (10) Declaration of Robin Gulde in Support of Plaintiff Dr. Bott LLC's Response to  
 21 Defendant Bott's Motion to Disqualify;
- 22 (11) Declaration of Richard M. Layne in opposition to Defendant's Motion to  
 23 Disqualify Counsel for Dr. Bott, LLC;
- 24 (12) Declaration of Stacy R. Owen in Support of Plaintiff Dr. Bott LLC's Response to  
 25 Defendant Bott's Motion to Disqualify;
- 26 (13) Declaration of Eric W. Prentice in Support of Plaintiff Dr. Bott LLC's Response  
 to defendant Bott's Motion to Disqualify;



- 1 (14) Declaration of Bradley F. Tellam in Support of Plaintiff Dr. Bott LLC's Response
- 2 to Defendant Bott's Motion to Disqualify;
- 3 (15) Supplemental Declaration of Stacy R. Owen in Support of Plaintiff Dr. Bott
- 4 LLC's Response to Defendant Bott's Motion to Disqualify;
- 5 (16) Reply in Support of Motion to Disqualify;
- 6 (17) Supplemental Declaration of Katherine R. Heekin in Support of Motion to
- 7 Disqualify;
- 8 (18) Supplemental Declaration of Dr. Roderich Bott in Support of Dr. Roderich Bott's
- 9 Motion to Disqualify;
- 10 (19) Supplemental Declaration of Lawrence Vergun in Support of Motion to
- 11 Disqualify;
- 12 (20) Supplemental Declaration of Bill Douglas; and
- 13 (21) Testimony by Tiffany Couch.

14 The Court heard oral argument and testimony at 9:00 AM on June 10 and 11, 2013, and  
 15 held an additional hearing for clarification at 11:30 AM on August 30, 2013. Counsel Jeffrey  
 16 Edelson and Stacy Owen represented Plaintiff Dr. Bott, LLC, Counsel Richard M. Layne  
 17 represented Plaintiff Eric Prentice, and Katherine Heekin and Larry Vergun represented  
 18 defendant Dr. Roderich Bott.

19 Having heard arguments by counsel and testimony and having reviewed the briefing,  
 20 testimony, and exhibits thereto related to Defendant's motion and plaintiffs' opposition, the  
 21 Court makes the following Order:

## 22 23 24 ORDER

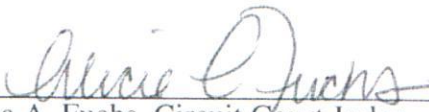
25 Defendant Roderich Bott's Motion to Disqualify is GRANTED. This Court finds that it  
 26 has the inherent power to disqualify counsel. The Court further finds that Markowitz Herbold  
 Glade & Mehlhaf PC and the Law Office of Robert McGaughey have violated their duty of




loyalty to its client Dr. Bott LLC.

Markowitz Herbold Glade & Mehlhaf PC and the Law Office of Robert McGaughey are disqualified from representing Dr. Bott LLC in this case.

DATED this 4 day of October, 2013.

  
Alicia A. Fuchs, Circuit Court Judge

SUBMITTED BY:

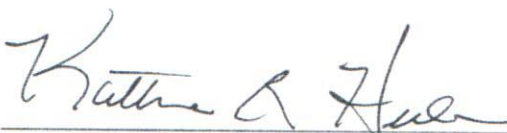
  
Katherine R. Heekin, OSB #944802  
The Heekin Law Firm  
503-222-5578  
Katherine@heekinlawoffice.com  
Of Attorneys for Defendant Dr. Roderich Bott

**CERTIFICATE OF COMPLIANCE WITH UTCR 5.100(1)**

I hereby certify that I complied with UTCR 5.100(1) with respect to the Order to which this certificate is attached by doing the following:

On September 24, 2013, I served opposing counsel with the Order to which this certificate is attached via email and mail, which is no less than 3 days prior to submission of this Order to the court.

Dated this 3rd day of October, 2013.

  
Katherine R. Heekin, OSB #944802  
Of Attorneys for Defendant Dr. Roderich Bott